STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of S.M.J. JORDAN, Minor.

UNPUBLISHED
August 26, 2014

Nos. 320832; 320834
Calhoun Circuit Court
Family Division
LC No. 2013-001978-NA

Before: SAAD, P.J., and OWENS and K. F. KELLY, JJ.

PER CURIAM.

Respondent-mother and respondent-father appeal the trial court's order that terminated their parental rights under, respectively, MCL 712A.19b(3)(j) and (*l*), and MCL 712A.19b(3)(b)(*ii*) and (j).[1] For the reasons stated below, we affirm.

I. ANALYSIS[2]

On appeal, respondents argue that: (1) the trial court lacked an evidentiary basis to terminate their parental rights; (2) petitioner failed to make reasonable efforts to facilitate reunification; and (3) the trial court erred when it found that termination was in the child's best interests.[3] We address each issue in turn.

[1] In its holding from the bench, the trial court did not specify under which subparts of MCL 712A.19b(3) it terminated respondents' parental rights, but considered evidence and factors that fall within the above subsections.

[2] We review the trial court's "decision that a ground for termination has been proven by clear and convincing evidence" for clear error. *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012) (internal citations and quotation marks omitted). The trial court's findings are only set aside if we are "left with the definite and firm conviction that a mistake has been made." *Id.* at 41 (internal quotation marks omitted).

[3] Respondent-father also asserts that termination of his parental rights violated his constitutional liberty interest in the custody, care, and management of his child. His assertion, however, is just that—an assertion. Because respondent-father fails to explain or rationalize his argument or cite to supporting authority, his argument is abandoned. *Houghton ex rel Johnson v Keller*, 256 Mich App 336, 339; 662 NW2d 854 (2003). In any event, because the Department proved the

A. STATUTORY GROUNDS FOR TERMINATION

"In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met." *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011).[4] In relevant part, MCL 712A.19b(3) states:

> (3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:
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> * * *
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> (j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

Here, the trial court had ample reasons to terminate respondents' parental rights under MCL 712A.19b(3)(j), which included: respondents' general unfitness as parents, their refusal to participate in services offered by the state to improve their parenting skills, and, most importantly, the risk of physical violence that permeated respondents' household and caused the child serious injury.

During a physical altercation with the child's maternal grandmother, respondent-father dropped the child on the floor, causing a skull fracture. (He was later convicted of assault and battery for the incident and placed on probation.) Despite, and perhaps due to, his obvious temperamental problems, respondent-father refused to complete a course in anger management, which was mandated as part of his probation. At the time of termination, he had attended only one anger management class and one counseling session. Respondent-mother's service-attendance record was equally abysmal—she failed to attend counseling at any point during the eight-month termination proceeding.

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existence of the circumstances mentioned in MCL 712A.19b(3)(j), respondent-father's constitutional liberty interest in parenting the minor child properly ceded to the state's interest in protecting her. See *In re Trejo*, 462 Mich 341, 355–356; 612 NW2d 407 (2000).

[4] In its holding from the bench, the trial court likely misspoke when it suggested that the evidentiary standard for the fact-finding stage of a termination hearing is preponderance of the evidence, when the proper standard is actually clear and convincing evidence. Moreover, this misstatement of the law was harmless, as the trial court explicitly stated that it found clear and convincing evidence of statutory grounds for termination. It is likely the trial court confused the standard for a best interests determination (preponderance of the evidence) with the standard for the fact-finding stage of a termination hearing (clear and convincing evidence). See *In re Moss*, 301 Mich App 76, 86–90; 836 NW2d 182 (2013) (explaining the different evidentiary standards and their respective application to the fact-finding stage of a termination hearing and the best interests determination).

Notwithstanding the state's intensive efforts to improve respondents' parenting skills—including thrice weekly parenting time and a personal parenting coach—they did not change their behavior. At times, respondent father yelled at the child for crying. Both respondents had impulse control issues that could lead, once again, to abuse or neglect of the child. And the trial court heard testimony that the prognosis for either respondent developing necessary parenting skills was "very poor." Accordingly, the trial court properly terminated respondents' parental rights under MCL 712A.19b(3)(j). Because the trial court correctly terminated parental rights under that subsection, we need not address the additional grounds for termination.

B. REUNIFICATION EFFORTS[5]

Respondents unconvincingly assert that petitioner failed to make reasonable reunification efforts. In fact, petitioner made extensive efforts, while respondents did virtually nothing, to help respondents improve their parenting abilities so that they could reunite with their daughter.

Respondents' parenting time was not increased because they failed to address their mental health issues and acquire basic parenting skills. Moreover, respondents' housing arrangements remained unsafe for a majority of the proceeding. And while respondent-father blames his failure to complete anger-management classes on the state's lack of financial assistance to pay for those classes, the record clearly shows that he failed to complete the course because he only began attending it two months before termination and did not request financial assistance until the week before termination. Respondent-mother makes a similar allegation—that she failed to participate in counseling because the state did not provide her with financial assistance—which is completely unsupported by the record. Perhaps from this, the trial court properly concluded that parents who perpetually blame others for their own misconduct are likely to repeat their misconduct and further endanger an innocent child.

C. BEST INTERESTS DETERMINATION[6]

After it shows clear and convincing evidence of a statutory ground for termination, the Department must prove by a preponderance of the evidence that termination is in the child's best interests. *In re Moss*, 301 Mich App at 90. "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." *In re Olive/Metts*, 297 Mich App at 42. A court can determine a child's best interests by considering many factors, including a respondent's bond with the child, his parenting ability, and "the child's need for permanency, stability, and finality." *Id*.

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[5] Respondents' arguments on the lack of reunification services are unpreserved on appeal, and are accordingly reviewed for plain error affecting substantial rights. *In re Utrera*, 281 Mich App 1, 8; 761 NW2d 253 (2008).

[6] We review the trial court's best interests determination for clear error. *In re Olive/Metts*, 279 Mich App at 40.

Here, respondents make the unconvincing claim that the trial court wrongly held that termination of their parental rights was in the child's best interest. The record does not show that the child was bonded to respondents. Their daughter had been out of their care for eight months at the time of termination. And, as noted, respondents lacked basic parenting skills.

Further, the child required stability and permanency at the time of termination. Respondents did not improve their parenting skills during the proceeding, and there was no indication they would be able to safely and properly parent the child within a reasonable time in the future. At the time of termination, the minor child was doing well in her placement, where she appeared to be happy, bonded with her foster parents, and developing appropriately. Accordingly, the trial court properly found that termination of respondents' parental rights was in the child's best interests.[7]

Affirmed.

/s/ Henry William Saad
/s/ Donald S. Owens
/s/ Kirsten Frank Kelly

[7] We reject respondent-mother's argument that the trial court's findings of fact on the child's best interests were deficient—the findings satisfied MCR 3.977(I)(1)'s requirements. Further, respondent-mother's argument that the trial court failed to take testimony on the minor child's best interests is entirely unsupported by the record.